



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2018–N038; FXES11140100000–189–FF01E00000]

**Notice of Intent to Prepare a Draft Environmental Impact Statement for the
Proposed Skookumchuck Wind Energy Project Habitat Conservation Plan in Lewis
and Thurston Counties, Washington**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent for scoping; notice of public scoping meeting; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), provide this notice to open a public scoping period and announce a public open house meeting in accordance with requirements of National Environmental Policy Act (NEPA) regulations. We intend to prepare an environmental impact statement (EIS) to evaluate the impacts on the human environment associated with operations of a proposed wind energy project, for which the Service anticipates receipt of an application for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA). Incidental to its operations, the wind project is likely to take the marbled murrelet, listed as threatened under the ESA, as well as the bald eagle and golden eagle, both of which are protected under the Bald and Golden Eagle Protection Act. The project proponent is Skookumchuck Wind Energy Project, LLC, an affiliate of Renewable Energy Services. The wind project would be located near Yelm, Washington, in Lewis and Thurston Counties, and would consist of up to 38 commercial wind turbines and associated infrastructure.

DATES: You may submit information, questions, and comments until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Public meetings: During the scoping period, the Service will hold two public scoping open house meetings: One in Lacey, Washington, and one in Centralia, Washington. The Lacey scoping meeting will be held on May 8, 2018, from 6 to 8 p.m., and the Centralia scoping meeting will be held on May 10, 2018, from 6 to 8 p.m.

The public scoping meetings will provide Skookumchuck Wind Energy Project, LLC, and the Service an opportunity to present information pertinent to the wind project and for the public to ask questions and provide written comments and information on the scope of issues and alternatives we should consider when preparing the EIS. No oral comments will be accepted during the scoping meetings.

ADDRESSES: To request further information or submit written comments, please use one of the following methods:

- *U.S. mail:* U.S. Fish and Wildlife Service, c/o Mark Ostwald, 510 Desmond Dr. SE, Suite 102, Lacey, WA 98503.
- *Email:* wfwocomments@fws.gov. Include “Skookumchuck Wind” in the subject line of the message.
- *Internet:* You may obtain copies of this notice on the Internet at <https://www.fws.gov/wafwo/> (see **FOR FURTHER INFORMATION CONTACT** section).

You may also submit written comments during the public scoping meeting. See the **Public Availability of Comments** section for more information.

Public meetings: The addresses of the scoping meetings are as follows:

Lacey, Washington: South Puget Sound Community College, 4220 6th Avenue SE, Lacey, WA 98503.

Centralia, Washington: Centralia College, Walton Science Center, Room 100, 600 Centralia College Blvd., Centralia, WA 98531.

FOR FURTHER INFORMATION CONTACT: Mark Ostwald, by telephone at 360–753–9564, or by email at Mark_Ostwald@fws.gov. Hearing or speech impaired individuals may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a)(2)(A) of the Endangered Species Act (ESA), as amended (16 U.S.C. 1539(a)(2)(A)), the Skookumchuck Wind Energy Project, LLC, intends to submit a habitat conservation plan (HCP) in support of an incidental take permit (ITP) application for the ESA-listed marbled murrelet (*Brachyramphus marmoratus*), and the bald eagle (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*), both of which are not listed species under the ESA but are protected by the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668–668d). Hereafter, the marbled murrelet, bald eagle and golden eagle collectively will be referred to as the “covered species.” To meet our requirements under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), we intend to prepare a draft environmental impact statement (DEIS), and later, a final environmental impact statement (FEIS), to evaluate the effects on the human environment of authorizing take under the ESA and BGEPA by the proposed wind project.

The project proponent is seeking ITP coverage for the operation and maintenance of 38 commercial wind turbines. This includes, without limitation, ITP coverage for protected species colliding with both stationary and operating project structures. In

contrast, the project proponent does not intend to seek ITP coverage for the construction phase of the wind project, which may include, without limitation, constructing roads, turbine pads, and erecting turbines. Initial project construction is anticipated to begin in 2018. The project proponent intends to commence operations in 2019.

The Service's purpose and need for its proposed action will be to process the project proponent's request for an ITP for the project in accordance with the requirements of Section 10(a) of the ESA and associated regulations, and to either grant, grant with conditions, or deny the ITP in compliance with the requirements of applicable law including, without limitation, the ESA and BGEPA.

This scoping notice was prepared pursuant to the requirements of the NEPA and its implementing regulations in the Code of Federal Regulations at 40 CFR 1506.6. The primary purpose of the scoping process is for the public and other parties to assist in developing the DEIS by identifying important issues and alternatives that should be considered. We will prepare an FEIS prior to issuing an ITP decision.

Background

Endangered Species Act

Section 9 of the ESA prohibits "take" of fish and wildlife species listed as endangered under section 4 (16 U.S.C. 1538 and 16 U.S.C. 1533, respectively). The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Under section 3 of the ESA, the term "take" means to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct" (16 U.S.C. 1532(19)). The term "harm" is defined by

regulation as “...an act which actually kills or injures wildlife.” Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering” (50 CFR 17.3). The term “harass” is defined in the regulations as “an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering” (50 CFR 17.3).

Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

1. The taking will be incidental;
2. The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
3. The applicant will ensure that adequate funding for the plan will be provided;
4. The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
5. The applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

Bald and Golden Eagle Protection Act

Although the project proponent is requesting incidental take for bald and golden eagles under section 10(a)(1)(B) of the ESA, consistency with the requirements of BGEPA (16 U.S.C. 668–668d) is also necessary. The BGEPA prohibits take of eagles where “take” is defined as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” and where “disturb” is further defined as “to agitate or bother” a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle; (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior; or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior (50 CFR 22.3).

Under 50 CFR 22.26, the Service has the authority to authorize take of bald and golden eagles (generally, disturbance, injury, or killing) that occurs incidental to an otherwise lawful activity. For the Service to issue such a permit, the following required determinations must be met (see 50 CFR 22.26(f)):

1. The taking will be compatible with the preservation of the bald or golden eagle (further defined by the Service to mean “consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units and the persistence of local populations throughout the geographic range of each species”);
2. The taking will protect an interest in a particular locality;
3. The taking will be associated with, but not the purpose of, the activity;
4. The taking will be avoided and minimized by the applicant to the extent practicable;

5. The applicant will have applied all appropriate and practical compensatory mitigation measures, when required pursuant to 50 CFR 22.26(c);
6. Issuance of the permit will not preclude issuance of another permit necessary to protect an interest of higher priority as set forth in 50 CFR 22.26(e)(7); and
7. Issuance of the permit will not interfere with ongoing civil or criminal action concerning unpermitted past eagle take at the project.

The Service can provide eagle take authorization through an ITP for an HCP, which confers take authorization under the BGEPA without the need for a separate permit, as long as the permit issuance criteria under both ESA and BGEPA will be met by the conservation measures included in the HCP. *See* 50 CFR 22.11(a).

Skookumchuck Wind Project Habitat Conservation Plan

Project Description

Skookumchuck Wind Energy Project, LLC, intends to start project construction in 2018, and commence wind turbine operations in 2019. The goal of Skookumchuck Wind Energy Project, LLC, is to receive an ITP prior to commencing commercial operations of the wind turbines in 2019.

The majority of the wind project, including all of the 38 turbines, is located in Lewis County, Washington, with some supporting infrastructure located in Thurston County, Washington. The wind turbines are proposed to be constructed on a prominent ridgeline on the Weyerhaeuser Vail Tree Farm, approximately 18 miles east of Centralia, Washington.

The project consists of the following components: a maximum of 38 wind turbines, with an expected output of 137 megawatts (MW); a maximum wind turbine height of 492 feet (from ground to vertical blade tip); a maximum rotor diameter of 446 feet; approximately 36.5 miles of existing roads that will be upgraded; approximately 3.9 miles of new road that will be constructed; 17 miles of buried medium voltage collection cable that will transport power to a substation along the ridgeline; and 15 miles of transmission line that will transport power to the Tono Substation.

Covered Species

Marbled Murrelet

The marbled murrelet is a seabird that forages on marine waters and nests in mature and old-growth forests, generally within 55 miles of marine waters. Because the marbled murrelet is flying between forest nest sites and marine foraging areas, the species is susceptible to collision with the wind project turbines and possibly other related infrastructure, and thus mortality is anticipated.

The marbled murrelet was listed as threatened under the ESA in 1992 in California, Oregon, and Washington. The marbled murrelet is a relatively long-lived species with low recruitment potential. Low breeding rates, coupled with poor nesting success, have resulted in a population decline estimated at approximately 4.4 percent per year in Washington.

The radar surveys conducted for this project, along with recent observations of marbled murrelet occupancy behaviors on adjacent private forest lands in 2016, indicate that this geographic area continues to support nesting marbled murrelets. The wind

project poses a risk of collision to marbled murrelets transiting to and from marine foraging areas and nesting sites located in the vicinity of the Mineral Block portion of the Gifford Pinchot National Forest and private lands. The closest proposed turbine locations are 0.4 miles from a known marbled murrelet nesting site.

National Forest lands in the Mineral Block landscape are designated as critical habitat that is essential for the survival and recovery of the marbled murrelet. The area is also important because it represents the southernmost distribution of marbled murrelet nesting within the listed range of the species in the Washington Cascades. Past survey efforts have documented a minimum of seven murrelet nest sites in the Mineral Block area, indicating that the area supports a local colony of marbled murrelets with nesting fidelity to this landscape.

There is uncertainty regarding the number of marbled murrelet mortalities that may occur due to wind project operations. The project proponent has indicated its intent to request a 30-year permit term.

Bald Eagle and Golden Eagle

Bald and golden eagles can also be found in the project footprint and the surrounding areas, and will also be subject to collision with the wind project turbines and possibly other related infrastructure. Bald eagle populations are considered to be stable and increasing throughout most of the United States. Conversely, the golden eagle has been identified as a State candidate for listing due to declines in the number of nesting pairs at historic nests. Golden eagle populations are thought to be in a slight decline in some parts of the United States.

Although bald eagles are generally associated with aquatic habitat and are often found in higher numbers near water, they are wide ranging and can be found in almost any type of habitat, either migrating or moving between foraging and sheltering areas. Golden eagles are thought to be associated primarily with arid landscapes east of the Cascades; however, small numbers of golden eagles are known to nest and migrate west of the Cascade crest. Both eagle species were observed during preconstruction eagle surveys. During 418 hours of preconstruction eagle surveys at the proposed project site in 2016, over 200 minutes involved sightings of bald eagles, and over 35 minutes involved sightings of golden eagles.

Both bald and golden eagles are known to collide with wind turbines, causing injury and often death to the affected eagle. Since eagles have been observed using the project footprint and surrounding area, a potential injury and mortality risk to these species exists as a result of wind project operations. The potential risk to each species from this project will be analyzed in detail in the DEIS, using available tools such as the Service's Collision Risk Model and considering all cumulative and indirect effects.

Draft Environmental Impact Statement

NEPA requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Based on the criteria at 40 CFR 1508.27, we have determined, and the project proponent has expressed agreement, that the proposed Skookumchuck Wind Energy Project may have significant effects on the human environment.

To determine whether a proposed Federal action would require the preparation of an EIS, the Service must consider two distinct factors: context and intensity (40 CFR 1508.27; Service and National Marine Fisheries Service HCP Handbook 2016). Context refers to the geographic scale (local, regional, or national) of significance of short- and/or long-term effects/impacts of a proposed action. Intensity refers to the severity of the effects/impacts relative to the affected settings, including the degree to which the proposed action affects an endangered or threatened species or designated critical habitat; public health or safety; scientific, historic, or cultural resources; or other aspects of the human environment.

In determining whether the preparation of an EIS is warranted, we must also consider the 10 components of intensity, as set forth under 40 CFR 1508.27(b):

1. Impacts that may be both beneficial and adverse. A significant impact may exist even if the Federal agency believes that on balance the effect will be beneficial.
2. The degree to which the proposed action affects public health or safety.
3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.
5. The degree to which the potential impacts are highly uncertain or involve unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.
8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.
9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA.
10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The Service performed internal NEPA scoping for the wind project and identified the environmental issues requiring detailed analysis, as well as connected, similar, and cumulative actions. In this case, and after considering the above factors, the Service has determined that the proposed ITP action is of sufficient size and complexity to warrant the preparation of an EIS, is similar to previous permit actions taken by the Service's Pacific Region that likewise required the preparation of an EIS, and may have significant effects on the human environment. On that basis and in accordance with regulations at 40 CFR 1501.4, 1507.3, and 1508.27, the Service believes preparation of an EIS is

warranted to analyze the project-specific and cumulative environmental impacts associated with this proposed ITP action.

Therefore, before deciding whether to issue an ITP, we will prepare a DEIS, and later, an FEIS, to analyze the environmental impacts associated with the Service's ITP decision on the human environment. We do not intend to prepare an environmental assessment for the proposed action.

The DEIS will include a reasonable range of alternatives. Such alternatives may include, but are not limited to, variations in wind turbine curtailment by individual wind turbine and season, variations in covered species mitigation strategies, variations in implementation and effectiveness monitoring, or a combination of these factors.

Additionally, a No Action Alternative will be included. Under the No Action Alternative, the Service would not issue an ITP, and Skookumchuck Wind Energy Project, LLC, would be obligated to avoid take of the covered species, or risk violation of Federal law.

The DEIS will identify and describe direct, indirect, and cumulative impacts on elements of the human environment that could occur with the implementation of the proposed action and alternatives. The Service will also identify measures, consistent with NEPA and other relevant considerations of national policy, to avoid or minimize any significant effects of the proposed action on the quality of the human environment. The Service will publish a notice of availability in the *Federal Register* and a request for comment on the draft EIS and the Skookumchuck Wind Energy Project, LLC, draft HCP.

Request for Information

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party on this notice. We will consider these comments in developing the DEIS.

We seek specific comments on:

1. Biological information and relevant data concerning the covered species and other wildlife;
2. Information on marbled murrelet collisions with stationary and moving objects in the terrestrial environment;
3. Information on bald eagle, golden eagle, and marbled murrelet collisions with wind turbines, particularly in a forested environment;
4. Potential direct, indirect, and cumulative impacts that implementation of the proposed wind project and mitigation/minimization measures could have on the covered species; and other endangered or threatened species, and their associated ecological communities or habitats; and other aspects of the human environment;
5. Whether there are connected, similar, or reasonably foreseeable cumulative actions;
6. Other possible reasonable alternatives to the proposed permit action that the Service should consider, including additional or alternative avoidance, minimization, and mitigation measures;
7. Other current or planned activities in the vicinity of the wind project area and their possible impacts on the marbled murrelet, bald eagle, and golden eagle; and
8. Other information relevant to the proposed wind project and impacts to the human environment.

Public Availability of Comments

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we use in preparing the DEIS, will be available for public inspection by appointment, during normal business hours, at the Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Scoping Meeting

See **DATES** for the dates, times, and locations of the public scoping meetings. The primary purpose of the meetings and the public comment period is to provide the public with a general understanding of the background of the proposed action and to solicit written comments and information on the scope of issues and alternatives we should consider when preparing the DEIS. Written comments will be accepted at the meetings. No opportunity for oral comments will be provided. Comments may also be submitted by the methods listed in **ADDRESSES**.

Reasonable Accommodations

Persons needing reasonable accommodations in order to attend and participate in the public scoping meetings should contact the Service's Washington Fish and Wildlife Office, using one of the methods listed in **ADDRESSES** as soon as possible. In order to allow sufficient time to process requests, please make contact no later than one week before the public meetings. Information regarding this proposed action is available in alternative formats upon request.

Authority

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1501.7, 40 CFR 1506.5, 1506.6, and 1508.22).

Theresa Rabot,

*Deputy Regional Director, Pacific Region,
U.S. Fish and Wildlife Service.*

[FR Doc. 2018-09405 Filed: 5/2/2018 8:45 am; Publication Date: 5/3/2018]